

**UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA
MIAMI-DADE DIVISION**

CASE NO.:

EBBESKOV JANKOVIC, LLC
DBA iUSE PHOTOGRAPHY.
A Florida Limited Liability Company,

Plaintiff,

v.

ELIZABETH HOGAN, an individual and
COMPASS, Inc.

Defendants.

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COMPLAINT

Plaintiff, Ebbeskov Jankovic LLC dba iUSE Photography (hereinafter referred to as “iUSE”) by and through its undersigned attorney, files its complaint and states as follows:

PARTIES

1. Plaintiff, Ebbeskov Jankovic LLC dba iUSE Photography (“iUSE”), is Florida Limited Liability Company with its principal place of business in Broward County and is otherwise sui juris. iUSE was formerly known as Zignavisual Photography.
2. Defendant, ELIZABETH HOGAN, (hereinafter “HOGAN”) is a resident of Miami-Dade County and citizen of the State of Florida and is otherwise sui juris. HOGAN is a relator licensed in the State of Florida.

3. Defendant, COMPASS Realty (hereinafter “*COMPASS*”), is a Florida company whose headquarters and principal place of business is Miami, FL. COMPASS Realty is a Real Estate brokerage in the State of Florida which employs HOGAN as a realtor.

JURISDICTION AND VENUE

4. This is a civil action involving claims of copyright infringement arising under the Copyright Law of the United States, Title 17, United States Code, §101, et seq.

5. This Court has jurisdiction of the parties and of the claims of copyright infringement under 17 U.S.C. §501 et seq. and 28 U.S.C §§1331, 1332(a)(1) and 1338(a). Venue is proper in this judicial district under 28 U.S.C. §§1391 and 1400(a).

STATEMENT OF FACTS

6. iUSE Photography is a leading provider of professional state-of-the-art real estate photography services in South Florida.

7. iUSE Photography has established a valuable portfolio of real estate images and exclusive rights therein pursuant to the U.S. Copyright Act and International Copyright Laws, including the photos which are the subject of the instant lawsuit,

“Order FL9365” - 3661 Matheson Ave, Miami, FL, 33133

(See Exhibit 1—original iUSE photos of 3661 Matheson Ave, Miami, FL, 33133).

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8. Plaintiff's Photos from "Order FL9365" are wholly original with Plaintiff and constitute copyrightable images and subject matter under the Copyright Law of the United States.

9. Plaintiff's "Order FL9365" images were created as a work made for hire in August of 2020 for Realtor Rosiris Arriaga of Fortune International Realty.

10. The first publication of the "Order FL9365" was on or about August 2020.

11. Since the publication dates of the "Order FL9365" photos, Plaintiff has complied in all respects with the Copyright Revision Act of 1976, Title 17, United States Code, and all other laws governing copyright, has secured the exclusive rights and privileges in and to the copyright of said "Order FL9365" images.

12. iUSE Photography's copyright in the "Order FL9365" images are registered with the U.S. Copyright Office under U.S. Registration No. VA 2-289-818. Attached hereto as Exhibit 3 is a true and accurate copy of U.S. Copyright Certificate of Registration No. VA 2-289-818.

13. iUSE Photography's copyright in the "Order FL9365" images are registered with the U.S. Copyright Office under U.S. Registration No. VA 2-289-818. Attached hereto as Exhibit 2 is a true and accurate copy of U.S. Copyright Certificate of Registration No. VA 2-289-818.

14. Plaintiff is the sole owner of all right, title and interest in and to the copyright in its images pertaining to "Order FL9365" and the corresponding Certificate of Registration thereof, No. VA 2-289-818.

15. Subsequent to the creation and/or publication by Plaintiff of its copyrighted "Order FL9365", Defendants, HOGAN and COMPASS, infringed Plaintiff's copyright in said

images by reproducing, displaying, printing, reprinting, publishing, vending, distributing, selling, promoting or advertising said “Order FL9365” images or by causing and/or participating in such reproducing, displaying, manufacturing, printing, reprinting, publishing, vending, distributing, selling, promoting or advertising thereof or by preparing derivative works based upon said copyrighted images.

The *Defendants* have misappropriated, copied, prominently displayed and distributed the “Order FL9365” images in subsequent and unauthorized transmission of the images to the eventual buyer of the property in an off market transaction in 2021 for \$4.5M—resulting in the profitable sale--and subsequent social media postings advertising the profitable sale. (See Exhibit 3.)

16. Defendants knowingly misappropriated the Order FL9365 images and willfully copied, displayed and distributed the images without iUSE Photography’s permission, license or consent.

17. Color photocopies of Defendants' infringing copies of Plaintiff's copyrighted “Order FL9365” are annexed hereto and made a part hereof as Plaintiff's Exhibit 3—
(*Defendants’ Infringements*).

18. In so doing, Defendants wrongfully misrepresented their ownership of Plaintiff’s Copyright and profited from this conduct.

19. All of Defendants' acts as set forth herein were performed without the permission, license or authority of Plaintiff, and were performed in deliberate, intentional and/or reckless disregard of Plaintiff's rights in its copyrighted images. Defendants knowingly misappropriated the Order FL9365 Images and willfully copied, displayed and distributed the Order FL9365 images throughout the world without iUSE Photography’s permission, license or consent.

Consequently, the Defendants' activities constitute willful and intentional copyright infringement in violations of iUSE Photography's exclusive rights, the Copyright Laws of the United States, 17 U.S.C. §§ 101 *et seq.*, as well as International Copyright Law and subject the *Defendants* to liability to iUSE Photography for injunctive relief, statutory damages, actual damages, a disgorgement of profits resulting from these willful infringements, attorneys' fees and/or other further relief.

20. As a result of Defendants' acts as alleged herein, Plaintiff has suffered substantial damages and injury, and has lost gains, profits and/or advantages, which it otherwise would have obtained but for Defendants' infringements.

DEMAND OF JURY TRIAL

Plaintiff, iUSE, demands trial by jury for all causes of action so triable.

COUNT I **COPYRIGHT INFRINGEMENT ORDER FL9365**

21. Plaintiff repeats, realleges and incorporates the averments set forth in paragraphs 6 through 20, inclusive, of this complaint as if fully set forth herein.

22. As a result of Defendants' reproducing and publishing Plaintiff's copyrighted "Order FL9365" as shown in Exhibit 3, which is identical, to Plaintiff's "Order FL9365", as shown in Exhibit 1, Defendants have infringed Plaintiff's copyright registration in its "Order FL9365" images in violation of the exclusive rights of Plaintiff under §106 of the Copyright Law, Title 17 of the United States Code.

WHEREFORE, Plaintiff prays:

A. That Defendants, their officers, directors, servants, agents, employees and attorneys, and any and all persons in active concert or participation with it or them or any of them, be permanently enjoined and restrained from copying and/or infringing Plaintiff's copyrighted "Order FL9365" images, and from distributing any real estate listings or internet content bearing any image the same as or substantially similar to Plaintiff's copyrighted images;

B. That Defendants be required to account to Plaintiff for such damages as Plaintiff has sustained in consequence of Defendants' infringement of plaintiff's copyrighted images and to further account to Plaintiff for all gains, profits, and advantages relative to such violations, including but not limited to, Plaintiff's lost profits;

D. That Defendants be required to pay Plaintiff's costs in this action and Plaintiff's reasonable attorney's fees; and

E. That Plaintiff has such other and/or further relief as this Court may deem just and appropriate.

Respectfully submitted,
Dated: 6/18/2022

s/John P. Hess
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